



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

MATTER OF K-I-, INC.

DATE: MAY 24, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a New Jersey corporation operating a software consulting business, seeks to extend the Beneficiary's temporary employment as a business analyst under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with "specialized knowledge" to work temporarily in the United States.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not establish that: (1) the Beneficiary has specialized knowledge or that he has been employed primarily in a specialized knowledge capacity at the foreign entity; and (2) the Beneficiary will be employed in the United States in a specialized knowledge capacity.

The matter is now before us on appeal. In its appeal, the Petitioner submits a brief and asserts that the Beneficiary possesses specialized and advanced knowledge, and that he has been and will be employed in a specialized knowledge capacity.

Upon *de novo* review, we will dismiss the appeal.

#### I. LEGAL FRAMEWORK

To establish eligibility for the L-1 nonimmigrant visa classification, a qualifying organization must have employed the Beneficiary in a managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the Beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the Beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity. *Id.*

If the beneficiary will be serving the United States employer in a managerial or executive capacity, a qualified beneficiary may be classified as an L-1A nonimmigrant alien. If a qualified beneficiary will be rendering services in a capacity that involves "specialized knowledge," the beneficiary may be classified as an L-1B nonimmigrant alien. *Id.*

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the statutory definition of specialized knowledge:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines specialized knowledge as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129, Petition for a Nonimmigrant Worker, shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training and employment qualifies him/her to perform the intended services in the United States; however the work in the United States need not be the same work which the alien performed abroad.

## II. SPECIALIZED KNOWLEDGE

The Director denied the petition based on a finding that: (1) the Beneficiary did not possess specialized knowledge; and (2) the Beneficiary had not been employed abroad and would not be employed in the United States, in a position that involves specialized knowledge.

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#### A. Evidence of Record

The Petitioner filed the Form I-129 on February 13, 2015, indicating that it currently has over 9,000 employees worldwide<sup>1</sup> and an estimated gross annual income of \$400 million worldwide. The Petitioner stated that the Beneficiary will be working as a business analyst.

In support of the petition, the Petitioner submitted a letter, dated February 5, 2015, stating that the Beneficiary will be working on the Labor Reporting System (LRS) for its client, [REDACTED]. The Petitioner stated that the LRS interacts with the time and attendance data (eTime) and general ledger (GL) to get the data of the time and attendance, salary, head count, income, and expenses, and stated that it also computes the cross charges for various research and development departments to generate the various kinds of financial reports and send the cross charges file to the GL, along with receiving the actual employee salaries for calculating the correct government project billing dollars. The Petitioner went on to describe eTime, GL, and the Government Bids Approval Management System (GBAMS).

The Petitioner stated that “[a] new integration needs to be developed which requires all these 3 systems in order to have better Labor reporting system and support all needs of the compliance,” and described the Beneficiary’s proposed duties in the United States as follows:

- Work on Problem Requests and Change Requests rose while testing. Study the System Design Documents (SDR) and implement the changes in the current software, involves analysis & modifications in current software and design document (SDR).
- Modifications to existing functions initiated by Problem Report/Change Request (PRCR) and maintaining product compatibility.
- Prepare Business Requirement Document (BRD) and then translate into functional specifications and test plans.
- Closely coordinate with both business users and developers for arriving at a mutually acceptable solution.
- Government audit support for the labor reporting website data.
- LRS month end close support to make sure that all systems are performing well and meeting the deadlines.
- Follow the ITPM (Information Technology Project Management) process for project execution related to LRS application.
- Prioritize the defects and write business requirements to resolve them.
- Conduct sessions with management, SME, vendors, users and other stakeholders for open and pending issues.
- Develop Systems Specifications document to define the impact of the new requirements on the existing system.

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<sup>1</sup> Although the Form I-129 specifically asks for the “current number of employees in the U.S.,” the Petitioner did not provide that number.

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- Review test plans and test cases and ensure test cases reflect user needs. Also responsible for conducting user training and user acceptance testing to ensure and verify system is designed according to user needs.
- Suggest the measures and recommendations to improve the current application performance.
- Conduct sessions for created Use Cases, work flows, screen shots and Power Point presentations for the Web Applications.
- Create UAT plans with several test cases for each project to ensure that the system runs smoothly after the proposed enhancements or changes have been made.
- Review test results and coordinated with testing and development team to correct the issues.
- Develop timelines for project delivery, and managed projects/resources[.]
- Manage schedules, deadlines and resources and collaborate on the project.
- Interact with the developers on resolving the reported bugs and various technical issues.

The Petitioner went on to list the tools and technologies “proprietary to [the Petitioner]” that the Beneficiary will use, as follows:

1. [redacted] form modernization tool: To convert [redacted] forms into latest [redacted] form versions. There are many database applications in [redacted] that use this [Petitioner’s] developed tool for migration to the latest [redacted] forms version.
2. LRS (Labor Reporting System), eTime and GL (General Ledger) systems for employee’s project time and dollar tracking. Need to develop new systems based on this integration.
3. HTML, JavaScript, Java/J2EE, Servlets, JSP, [redacted] [The Petitioner’s] project management techniques that are used in the [redacted] applications support.
4. Experience in facilitating Joint Requirement Planning (JRP) sessions with Business User Groups, conducting Joint Application Development (JAD) sessions with IT Groups and Conflict Management with Project team members.
5. In depth knowledge Rational Unified Process (RUP) methodology, Use Cases, Software Development Life Cycle (SDLC) processes, Object Oriented Analysis and Design (OOAD).
6. Unified Modelling Language (UML) diagrams such as Use Case Diagrams, Activity Diagrams, Class Diagrams and Sequence Diagrams.
7. In the past 9+ years working with [the Petitioner], [the Beneficiary] has been involved in developing and supporting numerous [redacted] applications such as:
  - i. Software Surrender Tool
  - ii. [redacted]
  - iii. [redacted]

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- iv. [REDACTED] of Cold fusion applications
- v. Production Support and Maintenance of Web applications
- vi. Human Resources Website (HR Website)
- vii. Key Employee Stock Investment Management (KESIP)
- viii. [REDACTED] form Modernization Tool
- ix. Government Bids Approval Management System
- x. eTime Time Tracking System
- xi. Labor Reporting System

The Petitioner then provided an approximate breakdown of tasks and estimated time spent on each, such as: System Study / Understanding and Process Definition – 20%; Requirement Gathering – 20%; Project Management – 10%; High level design – 10%; Integration of Delivery – 10%; User acceptance Testing – 10%; Post-delivery Support – 10%; Onsite off-shore coordination – 5%; and Pilot Implementation – 5%. The Petitioner also provided a brief list of tools and methodologies required to carry out each of the listed activities.

The Petitioner stated that the Beneficiary “continues to be the most qualified candidate because of specialized and advanced knowledge gained, by him, while working offshore and onsite on this family of projects as well as while working on-site (on and off) since his initial transfer [in] March 2007.”

The Petitioner submitted the Beneficiary’s resume, indicating that he received a bachelor of engineering in computer science in 2004, and listing several open source technologies under “technical skills.” The resume also states that the Beneficiary was employed by the Petitioner in the United States from September 2011 to the present and listed the same, or very similar, duties for his work on the LRS, eTime, and the GBAMS.

The Petitioner also submitted a Project Team Structure organizational chart, dated January 21, 2015, depicting the Beneficiary as Business Analyst – EBU apps and LRS, reporting to the Engagement Manager, [REDACTED] who reports to the Practice Director, [REDACTED]

The Director issued a request for evidence (RFE) advising the Petitioner that the evidence presented was insufficient to demonstrate that the Beneficiary possesses specialized or advanced knowledge and that he will be employed in a position involving specialized knowledge in the United States. The Director noted that the Petitioner did not provide any documentation to support the claim that the Beneficiary has specialized knowledge or that he has an advanced level of knowledge or expertise in the outlined processes and procedures. The Director further noted that the Petitioner did not provide documentation to support its claim that the Beneficiary’s knowledge is different from that ordinarily encountered in his field. The Director instructed the Petitioner to submit evidence to satisfy these requirements.

In response to the RFE, the Petitioner submitted a letter stating that the Beneficiary has “specialized and advanced knowledge” of its process and execution of the [REDACTED] LRS project. The Petitioner

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stated that project execution requires advanced knowledge, specific to its [redacted] projects, of its processes, procedures, methods, techniques, and availability of staff, which would be commercially unfeasible to inculcate in an outside or inside hire, given the nature of the job. The Petitioner described the Beneficiary's proposed duties in the United States exactly as described at the time of filing the petition. The Petitioner went on to describe the Beneficiary's specialized and advanced knowledge as follows:

- [The Beneficiary] had been involved in the LRS application for a long time which makes him very specialized in this application. He is a Business Analyst on the above custom application. The skills and expertise on this custom application is not available in the market and can only be acquired through experience working specifically on this project as an employee of [the Petitioner].
- [The Beneficiary] has worked extensively in this business area giving him deep exposure. During this time, he was involved in customization of these applications as per business process requirements and interface developments with various systems.
- All the major discussions and work would be performed onshore in India as part of this project. [The Beneficiary's] presence for this program is required onsite in the USA to coordinate project execution based on the requirements.
- There is no other individual either in [the Petitioner or foreign entity] or [redacted] that has the necessary expertise, experience and specialized and advanced knowledge which is required for this project.

There is no availability of the above skills and experience apart from an individual working on such custom applications for a long time on this project for [redacted] [The Beneficiary] has been working on this project for [redacted] and with the above applications for a long time and has acquired specialized and advanced knowledge of our execution of this [redacted] project, specific distribution process knowledge as well as key technical skills with these unique applications. His onsite presence for this program is a must.

In the same letter, the Petitioner discussed its staff and the Beneficiary's "uniqueness" as follows:

Typically less than 1 person per 80 to 100 [of the Petitioning organization's] employees is considered unique or in possession of uncommon (i.e. specialized) knowledge. You will note that [at] any time we have approximately 9000 employees worldwide (of which about half are deployed on US client projects). In the USA, we have approximately 400+ employees, and including our US based affiliates, we have 700+ employees. Of these total employees, only about 1% to 3% are considered to have knowledge that is "uncommon" (i.e. specialized and/or advanced).

The Petitioner also discussed how the Beneficiary attained his specialized and advanced knowledge and his training as follows:

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In summary, [the Beneficiary] has specialized and advanced knowledge and experience in [the Petitioner's] onsite-offshore processes, methodologies[,] procedures and tools on application software development and maintenance, by virtue of his involvement in software projects at [the foreign entity] and [the Petitioner]. This specialized and advanced knowledge has been gained from his many years of progressively responsible experience with the parent company, in the same function and the in-house training that he has received.

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His specialized and advanced knowledge is derived from 3 sources: (i) the foundation of his knowledge is his education, his 9+ years of experience working with [the Petitioner's organization] on these [redacted] projects and the training that he has received at [the Petitioner;] (ii) this knowledge has become more focused, specialized and advanced as he has worked on executing this project for [redacted] for that past several years; (iii) he has knowledge that has become even more focused and unique (i.e. highly specialized and advanced) since he has been working exclusively on the [redacted] project. Thus, he does have specialized and advanced knowledge that is required in the USA . . . . Furthermore, since [redacted] is such an important, valuable and large client, any slip ups could result in a major economic and reputational setback to us.

The Petitioner further stated that the experience required to attain the Beneficiary's level of specialized and advanced knowledge, and to perform the same proposed duties as the Beneficiary, "can only gained by at least one year of in-house overseas employment, coordinating or working on . . . these [redacted] specific projects."

The Petitioner did not provide any additional information pertaining to the Beneficiary's possession of specialized knowledge or his employment abroad and proposed employment in the U.S. in a position involving specialized knowledge.

The Director denied the petition on October 19, 2015, concluding that the Petitioner had not established that the Beneficiary possesses specialized knowledge or that he has been employed abroad or would be employed in the United States in a position requiring specialized knowledge. In denying the petition, the Director found that the documentation provided was insufficient to establish that the Beneficiary's knowledge of the Petitioner's processes and procedures is "advanced" or "specialized" in relation to other employees or that the Beneficiary's knowledge may be differentiated in any way from similar positions at other companies. The Director further found that the Petitioner did not provide sufficient evidence to demonstrate that the Beneficiary's duties involved specialized knowledge of its product, tools, processes, or procedures, rather than the skills required merely to use such products. The Director also found that the supporting documentation suggested that the Beneficiary's value to the project involved the Beneficiary's familiarity with and knowledge of the client's software, methodologies, and procedures, rather than a specialized or

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advanced knowledge of the Petitioner's product or services exclusively. The Director noted that the knowledge of software development methodologies and procedures, and the ability to adapt them to meet a company's needs, do not appear to be unusual for business analysts to possess, and therefore are not indicative of the Beneficiary's claimed expertise. The Director further noted that the customization of open source technology does not constitute specialized knowledge of technologies specific to the Petitioner's organization.

On appeal, the Petitioner contends that its need for the Beneficiary's specialized and advanced knowledge continues to be very critical since he has worked on the project for so many years, and any disruption would be economically detrimental to the Petitioner as it would be unable to find anyone else with the Beneficiary's deep knowledge of its processes, procedures, and methods for executing the [redacted] project. The Petitioner asserts that "only those that have worked on the [redacted] project for a long time would have the required narrow and deep knowledge (i.e. advanced knowledge) of [the Petitioner's] method, process and procedure for executing the project at [redacted]."

The Petitioner states that it does not have any additional material to submit to augment what is in the record. The Petitioner simply reiterates that "[o]f these 9000 employees, only about 1% to 3%, i.e. less than 100, are considered to have knowledge that is 'uncommon' (i.e. advanced and specialized)."

#### B. Analysis

Upon review of the petition and the evidence of record, including materials submitted in support of the appeal, we conclude that the Petitioner has not established that the Beneficiary possesses specialized knowledge or that he has been employed abroad, and will be employed in the United States, in a position involving specialized knowledge as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

In visa petition proceedings, the burden is on the petitioner to establish eligibility. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.* The Director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

In order to establish eligibility, the Petitioner must show that the individual will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the

company.” *See also* 8 C.F.R. § 214.2(l)(1)(ii)(D). The Petitioner may establish eligibility by submitting evidence that the Beneficiary and the proffered position satisfy either prong of the definition.

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. U.S. Citizenship and Immigration Services (USCIS) cannot make a factual determination regarding the beneficiary’s specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary’s knowledge. The petitioner should also describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

As both “special” and “advanced” are relative terms, determining whether a given beneficiary’s knowledge is “special” or “advanced” inherently requires a comparison of the beneficiary’s knowledge against that of others. With respect to either special or advanced knowledge, the petitioner ordinarily must demonstrate that the beneficiary’s knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary’s knowledge or expertise is special or advanced, and that the beneficiary’s position requires such knowledge.

Because “special knowledge” concerns knowledge of the petitioning organization’s products or services and its application in international markets, the petitioner may meet its burden through evidence that the beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry.

Because “advanced knowledge” concerns knowledge of an organization’s processes and procedures, the Petitioner may meet its burden through evidence that the Beneficiary has knowledge of or an expertise in the organization’s processes and procedures that is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer’s operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

In the present case, the Petitioner has not established that the Beneficiary possesses knowledge that may be deemed “special” or “advanced” under the statutory definition at section 214(c)(2)(B) of the Act, or that the Beneficiary had been or will be employed in a capacity requiring specialized knowledge.

First, the Petitioner does not sufficiently describe the Beneficiary’s specialized knowledge. For instance, the Petitioner indicates numerous times on the record that the Petitioner has special knowledge of the “LRS,” a system utilized by its client, along with eTime, GL, and GBAMS. However, the Petitioner does not provide a detailed explanation of these technologies in layman’s

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terms, nor did the Petitioner identify any aspects about the technologies used or the system itself. Moreover, the Petitioner claims that the Beneficiary's advanced knowledge is that of its policies, procedures, practices, and methods related to its LRS project for its affiliated company and client, [REDACTED] but does not specifically identify what any of the referenced policies, procedures, practices, and methods are. The Petitioner simply states that the Beneficiary has "specialized and advanced knowledge of [its] process and execution of the [REDACTED] [LRS] project."

The Petitioner has not described the company's "method, process and procedure" beyond stating that the Beneficiary has advanced knowledge of the company's proprietary tools such as [REDACTED] form modernization tools," "RUP methodology," and "SDLC processes." In each case, however, the Petitioner has not articulated the function of these systems or how the Beneficiary used, or will use, these proprietary tools during the course of his duties. The internal systems and tools used for project management are reasonably used company-wide by employees working on client projects and the Petitioner has not specified how much training is needed to become proficient in such tools. Further, the record does not contain evidence that the Beneficiary received any formal training in these tools or systems. Although the Petitioner made a vague statement about training the Beneficiary received at the Petitioner's organization, it did not articulate how these trainings form the basis of the Beneficiary's specialized knowledge, nor did it explain how such training differentiates the Beneficiary from other similarly-employed workers.

The Petitioner's attempts to differentiate the Beneficiary's knowledge from that generally held by other business analysts have not been adequately supported. On appeal, the Petitioner emphasizes that "only those that have worked on the [REDACTED] project for a long time would have the required narrow and deep knowledge (i.e. advanced knowledge) of [the company's] method, process and procedure for executing the project at [REDACTED]"

The minimal evidence submitted suggests that the Petitioner's employees are not required to undergo extensive training in the company's processes and methodologies, or specific training related to their project assignments. As the Petitioner has not specified the amount or type of training its technical staff members receive in the company's tools and procedures, it cannot be concluded that its processes are particularly complex or different compared to those utilized by other companies in the industry, or that it would take a significant amount of time to train an experienced business analyst who had no prior experience with the Petitioner's family of companies. Based on the evidence submitted, it appears the Petitioner's internal processes and project implementation practices can be readily learned on-the-job by employees who otherwise possess the requisite technical and functional background in the information technology field. The Petitioner has not established the Beneficiary's expertise with LRS or its [REDACTED] projects, combined with his knowledge of its processes, procedures, and methods for executing the [REDACTED] project, constitutes "specialized knowledge" such that his knowledge is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry.

The Petitioner also indicates that the Beneficiary's knowledge is "atypical," "not commonly found," and "at a very different level," but does not explain this knowledge in detail or specifically describe

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how he gained knowledge not possessed by other similarly-employed workers, other than stating that he has over nine years of experience. The Petitioner did not provide other information that would have assisted in evaluating its claims, such as an organizational chart depicting the other staff who have similar qualifications, work on [REDACTED] projects, and use the same internal project management tools and systems. Although we acknowledge the Petitioner's submission of a Project Team Structure organizational chart, which demonstrated the hierarchy to which the Beneficiary reported, it contained no information regarding other staff members who held positions lateral to the Beneficiary.

The Petitioner in this matter has not provided sufficient evidence establishing the nature of the claimed specialized knowledge. The crux of the Petitioner's claim is that the Beneficiary's education, training, and years of experience working on [REDACTED] projects has resulted in the Beneficiary's specialized and advanced knowledge. However, the Petitioner has not provided sufficient evidence establishing that its policies, procedures, practices, and methods for coordinating and executing the projects for [REDACTED] are significantly different than those of others in the same industry. Although the Petitioner states that the Beneficiary has knowledge of its policies, procedures, practices, and methods, the Petitioner has not established how the Beneficiary's knowledge of these requires a level of knowledge that is different from what is generally possessed by similarly employed and credentialed business analysts in the industry. Moreover, the Petitioner has not established how this knowledge, even if proprietary, is "special" or "advanced." It appears that the Beneficiary is altering open source technologies to accommodate the needs of the Petitioner's client. Accordingly, the record does not include the requisite supporting evidence establishing that the "nature" of the Beneficiary's knowledge is advanced knowledge. The record is deficient in this regard.

Again, we cannot make a factual determination regarding a beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

As noted above, with respect to either special or advanced knowledge, the Petitioner ordinarily must demonstrate that the Beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. Based on the lack of corroborating evidence and explanations, the Petitioner has not demonstrated that the Beneficiary possesses knowledge that could not be transferred to another similarly educated and experienced business analyst.

To the extent that the Petitioner provides more specificity with respect to the Beneficiary's knowledge, this evidence reflects that the Beneficiary's knowledge is based more in third-party and client technology and processes rather than the petitioning company's processes and procedures. As

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previously noted, the Petitioner states a number of times on the record that the primary basis of the Beneficiary's specialized knowledge is his experience with LRS, a system owned by his company's client. In its initial support letter, the Petitioner stated that the Beneficiary is set apart based on his knowledge of the client and his understanding of LRS, which interacts with eTime, GL, and GBAMS. Further, the Petitioner indicates that the Beneficiary is set apart, since he has worked on the [REDACTED] project for a long time, which is how he has acquired the required narrow and deep knowledge of its methods, processes, and procedures for executing the project at [REDACTED]. In short, not only has the Petitioner not specifically described in detail the actual content of the Beneficiary's knowledge, it states numerous times that the basis of his knowledge is his familiarity with its client alone.

The Beneficiary's familiarity with the client's systems and project requirements, while valuable to the Petitioner, cannot form the primary basis of a determination that he possesses specialized knowledge. We acknowledge that any client project executed by the petitioning company or any other technology consulting company is unique in that it reflects the particular technological needs and business requirements of the individual client requesting the consulting services. However, all information technology consultants within the petitioning organization would reasonably be familiar with its internal processes and methodologies for carrying out client projects. Similarly, most employees would also possess project-specific knowledge relative to one or more international clients. The fact that a beneficiary possesses very specific experience with a particular international client's project does not establish that the beneficiary's knowledge is indeed special or advanced if the same could be said about the majority of the Petitioner's workforce.

Further, the Petitioner repeatedly asserts that [REDACTED] is its largest client and that it has performed work for this client for over ten years. Therefore, the Petitioner reasonably has many employees assigned to work on [REDACTED] projects, and its claim that the Beneficiary is somehow the only employee in the organization currently capable of supporting or upgrading the client's LRS system is simply not supported by the evidence. The Petitioner made a vague statement about training the Beneficiary received at the Petitioner's organization, but did not provide any clarification or further information pertaining to said training. The record does not include the information needed to make a comparison between the Beneficiary's training and experience and that possessed by others within the organization and within the industry as a whole. Further, the Petitioner does not detail the type or amount of training that would allow other business analysts working on [REDACTED] projects already employed or potentially hired at the foreign entity to advance to the position of the Beneficiary. In fact, the Petitioner does not provide any information relating to any of its other employees that are currently working on [REDACTED] projects.

The Petitioner emphasizes that the Beneficiary has nine years of experience with the client, but also states that it would require one year of in-house employment to train someone to his level of knowledge. There is insufficient evidence to support a finding that the position requires the nine years of client-specific experience the Beneficiary is claimed to possess. Further, it is reasonable to conclude that many employees have one year of experience working for this client. Without a more detailed explanation of the Beneficiary's specific knowledge and how his knowledge compares to

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others, it has not established that his long history with this client is sufficient to establish specialized knowledge.

As discussed previously herein, determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others in the petitioning company and/or against others holding comparable positions in the industry. The Petitioner bears the burden of showing that the Beneficiary holds knowledge that is noteworthy or uncommon compared to his colleagues both within or outside the organization or that his knowledge is advanced in relation to those similarly placed.

In the current matter, the Petitioner has provided general comparisons that do not effectively demonstrate that the Beneficiary is uncommon or noteworthy when compared to similarly employed workers both within and outside the organization. For instance, the Petitioner vaguely states that only "1% to 3%" of its 9,000 employees worldwide hold specialized knowledge and suggests that the Beneficiary fits within this class of special employees. According to the Petitioner's assertion, it is suggested that certain employees are deemed special and advanced by their mere mention and inclusion within a specific class. However, the Petitioner must do more than articulate that a few are special and advanced within its overall organization to demonstrate that a particular beneficiary holds specialized knowledge. Merely asserting that the Beneficiary possesses "special" or "advanced" knowledge will not suffice to meet the Petitioner's burden of proof. Although requested by the Director, the Petitioner has not articulated how many of the Beneficiary's team members assigned to the same client and project share the same training and experience, but only provided a vague statement as to the percentage of employees holding specialized knowledge within the overall organization. Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

In addition, the Petitioner does not provide details or supporting evidence to set the Beneficiary apart amongst others similarly placed in the industry. Other than submitting brief descriptions of the Beneficiary's current duties, both identical, and a vague explanation of how those duties require knowledge of its policies, procedures, practices, and methods, the Petitioner has not identified any aspect of the Beneficiary's position which involves knowledge that rises to a level that is special or advanced. Specifically, the Petitioner has not demonstrated what aspects of coordinating and executing the specific LRS project for [REDACTED] would require knowledge that is particularly complex or different from what is commonly held by experienced business analysts with the same skills. It is not sufficient to merely state that the Beneficiary is uncommon based upon knowledge of a particular client, project, or even by virtue of possessing knowledge of proprietary technology. The Director requested that the Petitioner explain how the Beneficiary's knowledge is different from others in the industry and why the duties of the position could not be performed by a similarly placed professional. However, beyond stating that the Beneficiary held knowledge of client requirements and systems, the Petitioner did not articulate or document how the Beneficiary was significantly different from other business analysts.

We do not doubt that the Beneficiary is a valuable employee who is well-qualified for the proposed position in the United States. But overall, the evidence does not reflect how the knowledge and experience required for the Beneficiary's position would differentiate that position from similar positions at other employers within the industry. Again, the Petitioner's claim that the knowledge is proprietary must be accompanied by evidence establishing that the Beneficiary possesses knowledge that is different from what is generally possessed in the industry; any claimed proprietary knowledge must still be "special" or "advanced." Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

For the reasons discussed above, the evidence submitted does not establish that the Beneficiary possesses specialized knowledge, or that he has been employed abroad, and will be employed in the United States, in a position involving specialized knowledge. See section 214(c)(2)(B) of the Act.

### III. PRIOR APPROVALS

The Petitioner noted that USCIS approved three other petitions that had been previously filed on behalf of the Beneficiary. The Director's decision does not indicate whether she reviewed the prior approvals of the other nonimmigrant petitions. If the previous nonimmigrant petitions were approved based on the same evidence contained in the current record, the approvals would constitute an error. We are not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm'r 1988). It would be unreasonable for USCIS or any agency to treat acknowledged errors as binding precedent. *Sussex Eng'g Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

Moreover, the prior approvals do not preclude USCIS from denying an extension of the original visa based on reassessment of a petitioner's qualifications. *Texas A&M Univ.-Corpus Christi v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004).

### IV. CONCLUSION

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of K-I, Inc.*, ID# 16625 (AAO May 24, 2016)